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August 5, 2008

VIA ECF FILING

Honorable Shira A. Scheindlin
United States District Court
Southern District of New York
500 Pearl Street, Room 1620
New York, New York 10007

Re: Ava Acupuncture, P.C., et al. v. State Farm Mutual
Automobile Insurance Company, et al.
Case No.: 08-CV-5650(SAS)
RR File No.: 010660-08200

Dear Judge Scheindlin:

We write jointly on behalf of our client, State Farm Mutual Automobile Insurance Company, and the remaining defendants in this action,¹ to request a further extension of time to answer or make any motion in response to plaintiffs' complaint. Defendants' answer is presently due on August 14, 2008, as per this Court's Order.

As this Court is aware, plaintiffs have filed a motion to remand this matter to State Court. Pursuant to a briefing schedule ordered by this Court, defendants' opposition to plaintiffs' motion is due on or before August 21, 2008. It is defendants' intention to file a pre-answer motion to dismiss, either pursuant to Fed. R. Civ. Pro. 12(b) or CPLR 3211, once the motion for remand is decided. Accordingly, it would be impractical, as well as a potential waste of time and resources, to make such a motion while the motion for remand is pending.

¹ Since the commencement of this action, plaintiffs have voluntarily dismissed their lawsuit against the following defendants: Melli, Guerin & Wall, P.C., Katten Muchin Rosenman LLP, Rivkin Radler LLP, Iseman Cunningham Riester & Hyde LLP and Eric Dinallo, Superintendent of Insurance for the State of New York. Plaintiffs Ava Acupuncture P.C. and Model Supply Inc. have also discontinued their action against all defendants.

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Therefore, defendants request an extension of at least 30 days after the motion for remand is decided to answer or make any motion in response to plaintiffs' complaint.

Plaintiffs' attorney, Raymond Zuppa, has consented to this request. Defendants further request that any discovery in this matter be stayed pending a decision on plaintiffs' motion.

The Court's consideration of this request is greatly appreciated.

Very truly yours,

RIVKIN RADLER LLP

Michael P. Versichelli

MPV:gb

cc: All Counsel (Via ECF)